



# NASA Procedural Requirements

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## Subject: Ethics Program Management

**Responsible Office: Office of the General Counsel**

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## CHAPTER 4: Financial Disclosure Reports

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### 4.1 Positions Subject to Financial Disclosure

#### 4.1.1 Background

Financial Disclosure Reports are part of a disclosure process intended to help employees identify and avoid real and potential conflicts between their financial interests and their governmental duties. There are two different Reports: SF-278, Public Financial Disclosure Report, and OGE Form 450, Confidential Financial Disclosure Report.

#### 4.1.2 Positions Subject to Filing of Executive Branch Public Financial Disclosure Reports

The following individuals, holding a position described in this subchapter, shall be subject to the filing of SF-278s, pursuant to NPD 1900.9:

- a. Presidential nominees to positions requiring the advice and consent of the Senate.
- b. Officers and employees, including SGEs, whose positions are classified above GS-15 of the General Schedule, or whose rate of basic pay under other pay schedules is fixed at a rate equal to or greater than 120 percent of the minimum rate of basic pay for GS-15 (this includes members of the Senior Executive Service), military personnel serving in pay grades O-7 or above, and employees in any other position determined by the Director of OGE to be of equal classification.
- c. Administrative Law Judges.
- d. Employees of the excepted service in positions that are of a confidential or policymaking character, unless the Director of the OGE has excluded their positions.
- e. The Designated Agency Ethics Official.
- f. Intergovernmental Personnel Act employees paid at or above the SES level.

#### 4.1.3 Positions Subject to Filing of Executive Branch Confidential Financial Disclosure Reports

The following individuals, holding a position described in this subchapter, shall be subject to the filing of an OGE Form 450, pursuant to NPD 1900.9:

##### a. Filing Based on Position

An employee holding a position described below must file an OGE Form 450:

(1) Employees classified at the GS-15 level and below under 5 U.S.C. § 5332, or at comparable pay levels under other authority, regardless of grade, and military personnel serving in pay grades below O-7, whose duties and responsibilities require that the employee participates personally and substantially through decision or the exercise of significant judgment in making a Government decision or taking Government action regarding the following:

- (i) Contracting or procuring, including the evaluation or selection of contractors; the negotiation, approval, or award

of contracts; the oversight of activities performed by contractors, including administrating, monitoring, auditing, and inspecting of contractors and contract activities; and the initiation or approval of requests to procure supplies, equipment, or services, other than those common items from NASA or General Services Administration sources.

(ii) Administering or monitoring grants or subsidies or agreements, including Space Act Agreements, and including those with educational institutions and other non-Federal organizations.

(iii) Regulating or auditing any non-Federal entity.

(iv) Using or disposing of excess property.

(v) Establishing or enforcing safety standards and procedures.

(2) Employees classified at the GS-15 level under 5 U.S.C. 5332, or at comparable pay levels under other authority and below, and who are identified at Headquarters by the Director, Headquarters Human Resources Management Division, or by the Human Resources Officer at a NASA Center, as holding positions requiring the incumbent thereof to exercise judgment in making Government decisions or taking actions in which such decisions or actions may have a direct and substantial economic impact on the interest of any non-Federal entity; or whose positions are otherwise identified as requiring the employee to file a report to avoid a real or apparent conflict of interest, and to carry out the purposes behind any statute, Executive order, rule, or regulation applicable to or administered by that employee (e.g., employees whose duties involve investigating violations of criminal or civil law).

(3) All SGEs.

(4) Intergovernmental Personnel Act Employees who are performing duties that, if performed by a civil service employee, would require completing an OGE Form 450.

#### b. Filing Based on Assignment

All employees, regardless of grade, serving as members, evaluators, or advisers to the following boards or committees must file an OGE Form 450:

(1) Source Evaluation Boards or Committees.

(2) Inventions and Contributions Boards.

(3) Contract Adjustment Board.

(4) Board of Contract Appeals.

(5) Site Selection Boards.

(6) Performance Evaluation Boards or Committees administering the award fee of a contract.

#### c. Exclusions

The employees described in subsections a. and b. above may be excluded from filing OGE Form 450s, under the following circumstances:

(1) An employee required to file a SF-278 may elect to file a current copy of their SF-278 in lieu of the OGE Form 450 required under this chapter.

(2) An employee, or class of employees, may be exempted from the requirement to file an OGE Form 450 when the Director, Headquarters Human Resources Management Division, or the Human Resources Officer at a NASA Center, determines that the employee's duties are of such a nature as to make remote the possibility that the incumbent will be involved in a real or apparent conflict of interest, or the duties of the position involve such a low level of responsibility that the submission of an OGE Form 450 is unnecessary because of (1) the substantial degree of supervision and review over the position, or (2) the inconsequential effect of any potential conflict on the integrity of the Government. Supervisors shall forward exemption requests from, or on behalf of, employees to the Headquarters Human Resources Management Division through the Associate General Counsel (General) and to NASA Center Human Resources Officers through the Center Chief Counsel. Reviewing counsel will make recommendations based on the merits of exemption requests.

(3) Reviewing officials may make a determination to allow the use of OGE Optional Form 450-A for annual OGE Form 450 filers. If allowed, filers must file a new OGE Form 450 no less often than once every 4 years. If a 4-year cycle is used, new OGE Form 450s must be collected in every year divisible by 4 (e.g., 2000, 2004, 2008).

## 4.2 Identification and Notification of Filers

### 4.2.1 Public Financial Disclosure

a. NASA Human Resources Directors will identify employees required to file a SF-278, based on supervisory

determinations. The Directors will maintain and update the list of employees identified as filers and shall manage the list in accordance with NPR 1441.1, NASA Records Retention Schedules, to ensure their proper maintenance, safeguarding, and disposition.

b. NASA Human Resources Directors will notify filers of the annual filing deadline by March 15 of each year. The Directors shall send a reminder notice to all filers by April 15.

c. With regard to new entrants, Human Resources Directors will identify employees required to file SF-278s. The Directors will notify and distribute forms to those new entrants so identified as soon as possible in the appointment process and in plenty of time to allow the new filer to meet the 30-day filing requirement.

d. Human Resources Directors must identify employees that are terminating their tenure in a position requiring an SF-278. The Directors must also notify and distribute the forms to terminating employees in plenty of time for the filer to meet the 30-day filing requirement. In the event that the form is not timely filed, Human Resources Directors must notify the terminating employee that the form is late and notify the employee that a late fee will be assessed.

#### 4.2.2 Confidential Financial Disclosure

a. NASA Human Resources Directors will identify employees required to file an OGE Form 450, based on supervisory determinations. The Directors will maintain and update the list of employees identified as filers and shall manage the list in accordance with NPR 1441.1, NASA Records Retention Schedules, to ensure their proper maintenance, safeguarding, and disposition.

b. NASA Human Resources Directors will notify filers of the annual filing deadline by August 31 of each year. The Directors shall send a reminder notice to all filers by September 30.

c. With regard to new entrants, Human Resources Directors will work with the new entrants' supervisors to identify employees required to file OGE Form 450s. The Directors will notify and distribute forms to new entrants required to make a confidential filing as soon as possible in the appointment process and in plenty of time to allow the filer to meet the 30-day filing requirement.

### 4.3 Determination of Calendar Year

a. For SF-278s, the reporting period varies depending on the SF-278 Schedule. Schedule A should cover the prior calendar year (CY) and the current CY up to the date of filing; Schedule A, block B, should include the value of assets as of any date within 31 days of filing; Schedule C, Part I should cover the prior CY and the current CY up to any date within 31 days prior to the date of filing; Schedule C, Part II is as of the date of filing; and Schedule D covers the prior two CYs and the current CY up to the date of filing.

b. For OGE Form 450s, the report should cover the 12-month period from October 1 of the prior year through September 30, or any portion of that time period not covered by a previous Public or Confidential report.

### 4.4 Timeframe for Filing

#### 4.4.1 Public Financial Disclosure

a. Employees responsible for filing annual SF-278s must file their reports for the previous calendar year with the Agency by May 15.

b. New entrants must file within 30 days of assuming a new position that requires Public Financial Disclosure reporting. No report is required if the employee

- 1) left a position requiring filing of an SF-278 within 30 days prior to assuming the new position or
- 2) already filled out a report as a nominee.

c. Nominees must file between nomination and within five days after transmission of the nomination to the Senate.

d. If a new entrant or nominee is not expected to work in excess of 60 days in a calendar year as determined by the ADAEO, the employee is not required to file an SF-278. In that case, however, SGEs must still file an OGE Form 450. If the employee eventually does work in excess of 60 days, the employee must file an SF-278 within 15 days after the 60th day of duty and will have to file a termination report after leaving the position.

e. Termination reports must be filed within 30 days of leaving a covered position, unless the filer is going to another covered position within the 30 days.

#### 4.4.2 Confidential Financial Disclosure

a. If an employee performs a job requiring an OGE Form 450 for more than 60 days during the reporting period, the employee must file an OGE Form 450 as an incumbent (i.e., an annual filer). Employees responsible for filing OGE

Form 450s must file their reports for the previous fiscal year with the Agency by October 31.

b. New entrants must file within 30 days of assuming a position that requires filing of an OGE Form 450. No report is required if the employee 1) left a position requiring filing of an SF-278 or OGE Form 450 within 30 days prior to assuming the new position and had satisfied the reporting requirements of that job or 2) already filled out a report in connection with appointment to the position.

c. If employees start a covered position between August 2 and September 30, they do not need to file an annual report, because they must have worked over 60 days in the preceding period. Instead, a new entrant report must be collected.

d. With the exception of Special Government Employees, if an employee is not expected to work in excess of 60 days in a calendar year, the employee is not required to file an OGE Form 450. If the employee, however, does work in excess of 60 days, the employee must file an OGE Form 450 within 15 days after the 60th day of duty.

## **4.5 Extensions and Late Fees**

### **4.5.1 Public Financial Disclosure Reports**

a. Form reviewers may grant an extension of 45 days in which to file an SF-278. The reviewers may also grant an additional 45-day extension.

b. If a filer has not turned in their SF-278 within 30 days of the due date or the latest extension date granted by an Agency reviewer, the filer is subject to a \$200 late filing fee.

c. Upon written request from a late filer, the DAEO may waive the late filing fee following a determination of extraordinary circumstances.

### **4.5.2 Confidential Financial Disclosure Reports**

a. Reviewing officials may, upon a showing of good cause, grant one or more extensions in which to file an OGE Form 450, not to exceed 90 days total.

b. Administrative remedies are available for late filing of OGE Form 450.

## **4.6 Collection and Review**

a. The Senior Advisor for Executive Resources collects SF-278s for NASA Headquarters employees and all Center Directors, Deputy Directors, and Chief Counsels. The Office of the General Counsel reviews these reports.

b. Center Human Resources Officers collect SF-278s for all other Center employees. Each Office of Chief Counsel reviews and then forwards the Reports to the Senior Advisor for Executive Resources for retention.

c. The NASA Human Resources Directors collect OGE Form 450s for all filers at their Center. The Office of the General Counsel reviews the reports for Headquarters filers. Each Office of the Chief Counsel reviews the reports for their Center's filers.

d. Reviewing officials at Headquarters and the Centers may incorporate a supervisory review step into the review process.

e. Reviewers have 60 days from the date of filing to conduct a preliminary review of the reports.

## **4.7 Retention of Completed Reports**

The Senior Advisor for Executive Resources shall retain the SF-278s and the NASA Human Resources Directors shall retain the OGE Form 450s in accordance with NPR 1441.1D, NASA Records Retention Schedules.

## **4.8 Guidance on Financial Disclosure Requirements for Special Government Employees Serving on NASA Advisory Committees**

### **4.8.1 Policy**

NASA advisory committees are those entities which are composed in part of non-Federal officials and which are formed for the purpose of giving advice or recommendations to a Federal official. These groups include the Aerospace Safety Advisory Panel and the NASA Advisory Council. Although all SGEs must file financial disclosure reports (see paragraph 4.1.3(a)(3)), the provisions of this subchapter only apply to SGEs that are members of advisory committees, not SGEs serving in other roles, such as consultants or members of Source Evaluation Boards.

Non-Federal officials serving on advisory committees are normally appointed SGEs and are, therefore, required to file financial disclosure reports prior to appointment and annually thereafter. Failure to timely file a completed report disqualifies the SGE from participation in committee activities until the report is certified.

As set forth in NPD 1900.9D, the Office of the General Counsel reviews financial disclosure reports, including those of SGEs serving on advisory committees. For advisory committees only, the forms are also to be reviewed by the Executive Secretary of the advisory committee. The requirement for Executive Secretary review stems from an OGE audit of NASA financial disclosure systems and is based on the nature of the NASA advisory committees. A majority of NASA advisory committee members are employed in the aerospace industry or with academic institutions that have business with the Agency. Because of this, potential conflicts of interest are the rule, rather than the exception. Executive Secretaries are the only NASA employees with both knowledge of a particular committee's agenda and the opportunity to counsel caution, should the committee's activities lead it in a direction in which potential conflicts may become real. In order to protect both NASA and the SGEs serving on any given committee, the Executive Secretary must have personal knowledge of the potential conflicts among the members and, therefore, must participate in the conflict review.

#### 4.8.2 Appointments

Special filing and review requirements exist for the following types of appointments:

##### a. New Entrants

SGEs must file financial disclosure reports (new entrant reports) prior to appointment or reappointment. Once appointed, SGEs need not file a new report for each new committee to which they are appointed.

##### b. Multiple Appointments

When an SGE with a current appointment to a NASA Advisory Committee is assigned to another NASA Advisory Committee, the most recent form must be reviewed by the Office of the General Counsel and the Executive Secretary of the committee prior to the first meeting at which the SGE will be in attendance, so that any potential conflicts with the committee's business can be identified prior to any involvement by the SGE.

#### 4.8.3 Annual Filing

All advisory committee SGEs are required to update their financial disclosure reports annually (annual reports), subject to the following:

##### a. Due Date for Annual Filers

For ease of administration, all annual reports will be due on March 1 each year. Thus, all SGE members, including those who filed new entrant reports during the preceding 12 months, will file annual reports on that date. If an SGE files a new entrant report in January or February, the new entrant report may also serve as the annual report due on March 1 of that same year.

##### b. Alternative Financial Disclosure for Annual Filers

For purposes of the annual report only, advisory committee SGEs may use either the OGE 450 or a NASA Headquarters NHQ Form 247, Confidential Financial Interest Certification for Special Government Employees Serving on NASA Advisory Committees. This shortened disclosure form requires only that the SGE document any changes to his or her previously filed OGE 450, whether that OGE 450 is a new entrant or annual report. SGEs who must file the SF-278 may not use the NHQ Form 247. If an SGE opts for the NHQ Form 247, reviewers (e.g., the Office of the General Counsel and the Executive Secretary) must be provided with both the NHQ Form 247 and the most recent OGE 450 filed by that SGE, since most, if not all, potential conflicts will be identified on the OGE 450.

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